

July 12, 2001

Mr. Bruce R. Duncil  
2680 Highbrooke Trail  
Duluth, GA 30097

Dear Mr. Duncil:

I am responding to your letter, addressed to Chairman Meserve, dated June 15, 2001, in which you reiterated comments from your May 18, 2001, letter requesting the U.S. Nuclear Regulatory Commission (NRC) to deny the application for construction of a proposed mixed oxide (MOX) fuel fabrication facility. Because we are still reviewing the application, we have not yet determined whether the application satisfies our regulatory requirements and, therefore, it would be premature to deny the application at this time.

In your letter you commented on the need to know about facility operations prior to approving construction. The licensing review is a two-part review that includes an application for construction and an application for possession and use of special nuclear material. Under 10 CFR 70.23(b), our review of the application for construction will focus on the design bases of the principal structures, systems, and components, and the quality assurance program to ensure that there is reasonable assurance of protection against natural phenomena and the consequences of potential accidents. The construction review, however, does not occur completely independent from operational considerations and takes into consideration the facility's overall operating criteria. In the review of the application for possession and use of special nuclear material, we will review a detailed safety analysis that integrates facility design features with management operating measures to ensure public health and safety. Further, the Environmental Impact Statement (EIS) being prepared to support our licensing review will address the impacts of both construction and operation of the MOX fuel fabrication facility.

Also, you raised the concern that licensing of a MOX fuel fabrication facility would create a plutonium economy. The authority to decide whether to engage in the fabrication of MOX fuel resides in the executive branch—in this case, the Department of Energy. The Commission's role in this endeavor is to assure that through our licensing and regulatory function the public's health and safety is ensured.

Further, you raised several issues regarding the safety and security of the facility. As a holder of a license from the NRC, the applicant would have to meet the safety and security requirements found in the regulations. The NRC will follow its inspection and enforcement procedures to ensure that the applicant, if granted a license, complies with the regulations.

With respect to your concern regarding the widespread impacts of MOX fuel's use by reactor licensees, we will address that issue in the Scoping Summary Report for the MOX fuel fabrication facility EIS.

B. Duncil

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Last, I would note that, with respect to your comment that you are reconsidering whether to request a hearing, the deadline for submitting requests for a hearing expired on May 18, 2001, (see Federal Register Notice dated April 18, 2001 (66 FR 19994)).

If you have any further questions, please contact Mr. Timothy C. Johnson at (301) 415-7299 or Mr. Joseph Giitter at (301) 415-7485.

Sincerely,

**/RA/**

Michael F. Weber, Director  
Division of Fuel Cycle Safety  
and Safeguards  
Office of Nuclear Materials Safety  
and Safeguards

cc: R. Ihde, DCS  
J. Johnson, DOE  
H. Potter, SC Dept of H&EC  
J.T. Conway, DNFSB  
D. Moniak, BREDL  
E. Foster  
G. Carroll, GANE  
R. Thomas, Environmentalists, Inc.

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**/RA/**

Michael F. Weber, Director  
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Office of Nuclear Materials Safety  
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